

Better Homes and Centers



Michigan Department of
Social Services
Division of
Child Day Care Licensing
Vol. 2 No. 1 Winter 1984
"The Business of Day Care"
Part 2

LIABILITY SUITS NO ONE

The main focus of a child care program is to provide a healthy, safe environment for the children in its care and the staff in its employ. When you assume responsibility as a child care provider or employer, you automatically assume certain duties which can become legal obligations. You must take reasonable care and precautions to be sure that the obligations and expectations are met.

Obligations can come from many sources. There are specific laws that require child care providers to act in certain ways. If you do not do what the laws require, you can or may be held liable or responsible for the consequences. Examples are: 1) the Child Protection Act which requires providers to report any suspected child abuse or neglect; 2) tax laws which requires the deducting of income taxes and the filing of these monies and reports; 3) Act 116, Public Acts of 1973, as amended, which requires child care centers and family and group day care homes to be licensed or registered; 4) and Civil Rights laws which prohibits discrimination. Each law specifies penalties for violating the law.

There is also the basic obligation that we all take on when we offer a service to the public. That is that we will do everything possible to be sure that no one is hurt or injured in connection with the service we are providing. The legal words for this are "reasonable care."

As an example of how this might apply to a child care provider, take the issue of safety. There is a duty to make sure that the playground equipment is safe and age appropriate. That means that only equipment especially made for the age group of children should be purchased. The equipment must be installed properly and if it breaks, it must be fixed immediately.

If these things are not done and a child is hurt while using your equipment, you might

DIRECTOR'S CORNER

I would like to share with you the scope of the Child Day Care Licensing program in Michigan. Currently, the Division regulates 2,405 licensed child care centers, 374 licensed group day care homes and 10,838 registered family day care homes. They provide care and services to approximately 200,000 children each year. This is a considerable portion of this state's most valuable resource, its children.

In addition to conducting investigations for the issuance and renewal of licenses and registration certificates, the Division conducted over 750 complaint investigations concerning centers and homes, from 10/82 to 9/83.

Although many of these complaints are determined to be unfounded, many are substantiated, with far too many involving serious physical and emotional injury to young children. The percentage of complaints compared to the total numbers of facilities regulated is small. Yet the trauma and pain to one small child as a result of physical abuse, sexual assault, or injury resulting from lack of supervision cannot be overlooked or minimized.

Licensing is intended to set minimum acceptable guidelines which reduce the risk of harm to vulnerable children. Compliance with licensing requirements, while a good beginning, can go only so far. There is much more that the conscientious provider does through self-regulation to reduce risk to children even further. One such area has to do with the people day care children interact with on a daily basis. In your home or center, this could include adults, other children, your relatives or visitors in addition to yourself. Making sure that each of these interactions is positive for children is a matter of constant concern to you as a proprietor of a day care center or home. Awareness of your accountability and liability for what happens to children in your care is simply good business.

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find yourself in court. The court may order you to pay the parents or child for hospital or medical bills and other expenses, in addition to a sum of money for unspecified damages, such as pain and suffering. The court would award the money because there was a duty or responsibility which was not met resulting in the injury of a child.

In deciding whether you will have to pay damages, the court will consider whether "reasonable care" was taken and whether you were at fault for what happened. The court will take all of the facts presented and balance these to determine liability and the amount of damages to be paid.

The important thing is to be able to show the Court that you took reasonable care and followed established standards and guidelines in your operations. There is no way to insure that if a child is hurt you won't be sued, but there are some precautions you can take to reduce that likelihood or to reduce the amount of damages you have to pay. As an extra benefit, you will reduce the likelihood that children will be hurt.

Probably the most important thing to do is to follow the Rules and Regulations of the Department of Social Services for licensing and registering child care providers. The Court can and frequently does use these rules for guidance in determining what constitutes reasonable care and a safe child care setting. Following the Rules and Regulations will not insure that you will not be sued but should weigh in your favor when the Court makes its decision.

Some other precautions that would weigh in your favor are outlined below.

- Have a written accident procedure which is followed.
- Write a report on every accident which documents what precautions were taken, when and by whom and keep it on file.
- Supervise children's use of materials and equipment.
- Be sure staff has first aid training.
- Use authorized repair shops.
- Instruct staff on the proper use of materials and equipment.
- Make regular safety checks.
- If you have a playground, be sure it is clean and clear of any potentially dangerous objects such as glass, rocks, pop bottles, large sticks, etc. Use common sense.
- Always follow manufacturer's recommendations and instructions as to purchase, installation and maintenance.
- Use age appropriate materials and equipment (the package usually tells what age group the equipment is appropriate for and special limitations on its use).
- Ask the dealer for help and guidance and make sure that he or she knows how you intend to use the materials.
- Floors should be clean and dry; clean spills immediately.
- Keep poisonous cleaning substances out of reach.

If an injury does occur, provide appropriate first aid immediately and notify the parents. Assist parents in getting medical attention. Be as helpful as possible.

If parents see that you have acted responsibly and are being as responsible to the situation as possible, they are less likely to sue. If you are sued, see a lawyer at once because you can forfeit legal rights by not acting within certain time frames.

by Rachel Asbury and Laura Hess
Attorneys

UP COMING CONFERENCES

Michigan Association for the Education of Young Children and Family Day Care Annual Conference. Friday/Saturday - March 2, 3, 1984. Kellogg Center, MSU, East Lansing. Contact the 4-C Office in your area for more detail information.

Michigan Council of Cooperative Nurseries Annual Conference. April 5, 6, and 7. Kellogg Center, MSU, East Lansing. Contact Mary Weimer, 517-522-4420 or 517-782-9321 for more detail.

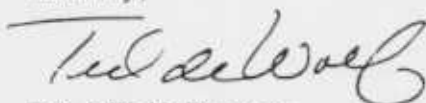
Based on your responses to the tear off in the first issue, **Programming for Special Groups** will be the theme for the next issue. We look forward to receiving from you resources you have found helpful, articles and more, relating to this topic.

REMINDER: If you haven't already done so, please complete and return the survey from the last issue of *Better Homes and Centers*.

Director's Corner (Continued from page 1)

Day care is an important life experience for a child which can pay enormous dividends. You can help the growth and development of children in your care, and help your business by meeting licensing or registration requirements and by a very careful and thoughtful selection and screening of staff and persons who are likely to interact with children in your care.

Sincerely,



Ted deWolf, Director
Division of Child Day Care Licensing

INSURANCE IS THE BEST POLICY

Excerpts from "Insurance", Resources for the Family Day Care Provider

Is special insurance necessary if I run a family day care home?

Yes, definitely. The insurance policy on your home, even though it includes some liability coverage, does not cover your day care activities.

What kind of insurance coverage do I need?

You need a general liability policy that will give you protection in case you are sued by a parent whose child is in your care. The general liability policy provides coverage for accidents that happen on or off your premises when you are considered the person in charge. This means you have coverage when you have children in your care, whether at home, on a field trip, at a local park, in your car or any place you go with them. You could be considered liable if something happened to one of the children in your care.

How can I get this kind of protection?

There are two ways to obtain liability coverage for your family day care business. One way is to check with the agent who writes your homeowner policy. He/she may be able to put a rider on your homeowner policy. Keep in mind that some companies that write homeowner insurance cannot provide this rider. Annual rates for the policy coverage have been \$25 for liability coverage plus \$5 per child for accident coverage. For example, if you were licensed for four children, your annual fee would be \$45. If some children leave and new ones replace them, you do not have to pay more for your insurance as long as you do not have more than four paying children in your home at one time.

How can I get more information on the day care insurance policy?

Call your local homeowner's insurance agent. Do not be surprised if he/she cannot put a rider on the policy. Request him/her to check with the parent companies he/she represents and get back to you.

What kind of insurance covers me if I have the children in a car and am involved in an accident?

In Michigan, your own automobile insurance would cover their medical payments up to the limits of your policy. To protect yourself, have your insurance agent increase your liability coverage from the minimum required 20/40/10.

(This means your insurance would pay a maximum of \$20,000 per person and \$40,000 per accident and \$10,000 for property damage.)

What can I do to minimize the chance of an accident?

There are many things you can do to minimize the chance of your being considered negligent. For example, check with your local Cooperative Extension agent to find out what kinds of shrubs and houseplants are dangerous. If you have any such houseplants, get rid of them or move them to a high shelf. If you have a shrub that is dangerous, consider replacing it or protecting it in some way. Particularly, watch shrubs that have little berries that are often poisonous and very tempting to young children. Avoid using loose throw rugs; place plastic covers in unused electrical plugs; have cats declawed; and have appropriate guards at the top and bottom of stairways if you are sitting for very young children. Avoid lengthy phone calls when you have children in your care. Family day care is an important job and, like any important job, it requires your undivided attention.

by
Marilyn Nagy

CENTERS PLEASE NOTE: While insurance coverage (except auto insurance) is not required by this Department, it should be carefully considered. Contact an insurance agent to determine the insurance coverage needs of your center.

EDITORIAL STAFF

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FOR THE RECORD

Whether you operate a family day care home for six children or a center for 106, an organized record keeping system will simplify your life and improve your services for children.

Your record keeping system doesn't have to be fancy. It needs only three basic components: a place to keep records, a means of separating records into useful categories, and some of your time. Depending on the size of your business, you may need a few hours to set up your system, and a little time spent each day insuring that items are put into the "right" category (the place where you will be likely to look for them).

You will probably want to tailor your filing system to your own unique needs, but here is a sample to get you started. Print headings in large letters on your dividers and place folders in the appropriate sections.

1. Children's Records:

- Attendance Records
- Health Department Immunization Summary
- A folder for each child containing required information:
 - Child Information Card or substitute
 - Permission to Obtain Emergency Medical Care
 - Health Statement based on physical exam OR
 - Permission to Participate in Health Care Program OR
 - Parental Statement regarding child's Health
 - Parent statement that they choose to provide food or formula
 - Field Trip Permission from Parents
 - Swimming Permission from Parents
 - Parental Permission for giving medication
 - Record of any medication
 - Record of food intake, sleep patterns, bowel movements, and developmental milestones for children under 2½ years.
 - Parent Contracts

2. Staff Records:

- Copy of TB Test Results for each adult
- Copy of Physical
- College transcript and/or CDA credential for center program director
- Employee Evaluation

3. Policies:

- Admission and Withdrawal Policy
- Fee Policy
- Discipline policy for parents and staff
- Nutrition and food service policy.

4. Business Records:

- Payment Records
- Bills
- Insurance Records
- Vehicle inspection records, driving records
- Income Tax Information

- Receipts, warranties for equipment
- Correspondence
- Copies of license application; licensing letters and reports.

5. Children's Activities:

- Weekly plans
- Toy ideas
- Holiday ideas
- Games
- Art recipes
- Field trip/excursion ideas
- Rainy day activities

6. Food Preparation:

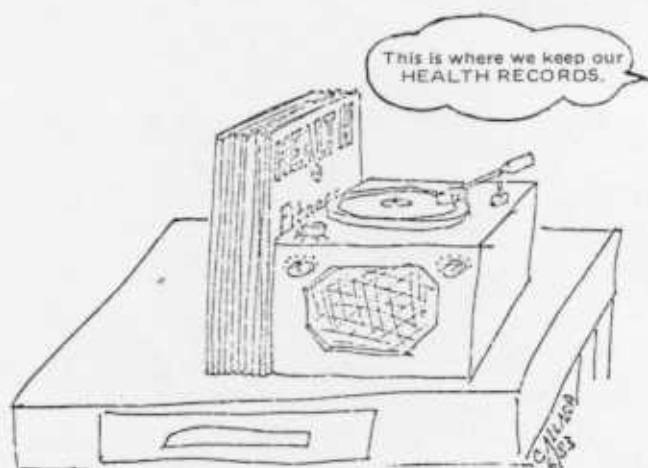
- Weekly menus
- Food ideas
- Recipes

7. Supplies:

- Blank forms
- Extra paper
- Carbon paper
- Copies of parent handouts, blank contracts, etc.

Some of these items are required by licensing rules. Others are suggestions. Those that are required will vary depending on whether you are a center operator or a family day care home provider, the ages of children you care for and the services you provide. Check with your center or home consultant to determine which items apply to you. Some of the forms for required records are provided free of charge by the Department as a service to providers. Many of the records (such as Children's Immunization) will have to be updated periodically, and others (such as Information Cards or Physicals) have to be checked when you get them to make sure they are complete and that you are aware of any unusual circumstances, such as allergies.

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DON'T OVER TAX YOURSELF *

Operating a business in your home, like family day care, can be frustrating and confusing when it comes to keeping records and preparing tax forms. It is encouraging to know that you can significantly reduce the amount of income on which tax must be paid through business related deductions.

Keeping well organized, up-to-date records of your day care income and expenses is essential. The system you devise for this purpose should reflect the needs of your situation and include the following:

- A record of what children were cared for in your home, when that care was provided, and how much the parent paid. These names, dates and amounts should be entered and updated weekly, totaled monthly and yearly. At the end of the tax year you can prepare a statement for each parent indicating how much was paid. They can refer to this when preparing their IRS form 2441 (Credit for Child and Dependent Care Expenses).

- A record of any other income related to your FDC business (including reimbursements from the Child Care Food Program).

- A record of all business related expenses. For the FDC provider, these could include:

- food
- gas
- household maintenance items
- art and craft supplies
- toys and play equipment
- insurance
- education (cost of training, workshops or resources which support you in your role as an FDC provider)

- A record of general expenses which can be claimed as FDC costs on a percentage basis:

- utilities
- rent or interest on mortgage
- furniture/appliances shared by family and FDC business
- home insurance
- car payments, maintenance, insurance

Deductions - There are two types of deductions: expenses which are deducted in full, and depreciation which is deducted in parts over several years.

Expenses - In the course of operating a family day care home, various expenses require different methods of documentation and deduction.

Items used exclusively for day care purchased in the current taxable year, which cost less than \$100 can be claimed as a one time 100% deduction.

Items bought during the previous years, not previously claimed, which are used exclusively for day care, can also be claimed at 100% of the current market value. All expendable items (those which you use up completely in your day care business) are considered direct expenses and deducted at full cost. Any item which is used by both your family and your day care children must be proportioned between the two. This is done by multiplying the PURCHASE PRICE or CURRENT MARKET VALUE by the PERCENTAGE for FAMILY DAY CARE USE. IRS Publication 587, "Business Use of Your Home", explains this formula in more detail.

Any expense which benefits the entire house (rent, utilities, insurance, mortgage interest, repairs, etc) may be deducted, but must be prorated by both the percentage of the house used for day care and the percentage of time that is so used. IRS Publication 587 also describes this deduction and notes that day care homes are the only businesses exempted from the "exclusive clause" which states that normally only those parts of the house which are used ONLY for business purposes may be deducted. Be sure that any preparer or accountant helping you with your returns is aware of this exemption.

Depreciation - Non-expendable items are those which have a useful life of over one year. If they cost over \$100, they must be depreciated. This means that their cost is written off over their useful life (normally several years) rather than all in one year. Household appliances, such as your refrigerator, floor covering or large equipment, fall into this category. IRS Form 4562 provides space for listing depreciable items and includes three categories applicable to day care:

- a) 3 year property-car or truck
- b) 5 year property-large appliances, furniture or equipment
- c) 15 year property-house or any permanent fixture, such as cost of remodeling a room, a fence, or kitchen cupboards.

Auto-Related Deductions - These can be claimed in one of two ways: as a direct expense (total mileage for day care and percent of repairs or expenses), or as a depreciable item over three years.

To claim direct expenses, keep a log of miles driven for day care, including trips to the grocery store, the bank, field trips, etc.

Currently the IRS allows for claiming 20¢

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per mile. In addition to mileage; you can claim other auto expenses, such as insurance and repairs. Determine the percentage of car usage for day care and claim that percentage of expenses. If your car is used exclusively for day care, write down your odometer reading at the beginning and then at the end of the year and claim the total, as well as 100% of other expenses. Remember to document your miles and keep all receipts.

Claiming depreciation instead of mileage is worthwhile especially if you own a car exclusively for the use in your day care business. If you have owned your car for several years and it is your first year in business, determine the **CURRENT MARKET VALUE** of the car and claim depreciation. The less you use your car for business, the better off you may be using the first option of claiming mileage and expenses. You may want to figure it out both ways and choose the best option.

Remember to document your costs. Save receipts regardless of whether the whole item is deductible or only a portion of it. All receipts should be kept for three years, in case you are audited by the IRS. If you cannot prove your expense, the IRS has the right to disallow the deduction.

Your objective in listing deductions is to come up with as small a profit as possible. This net profit is added to your family income on form 1040. You are able to come up with a loss on Schedule C only if it comes through expenditures, not through depreciation. Be aware, however, that claiming expenses in excess of your earnings may increase the likelihood of being audited by the IRS.

Tax laws and tax forms change from year to year. This article has included general guidelines rather than specific instructions so that you can adjust the information to your individual situation and tax year.

**Adapted from "Tax Guidelines for the Family Day Care Home Provider" by Kerry Olson, Director Y-Care Children's Center, Lansing. A complete copy of the article can be obtained from the Office for Young Children.*

The Department of Social Services will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, handicap, or political beliefs.

TAX SAVINGS FOR PARENTS

Parents may be eligible for a federal income tax credit for child care expenses. Contact your local IRS office or tax preparation agency for details. Some tax preparation agencies also provide free seminars for parents and providers on eligibility and applying for tax credit.

Resources

- Child Care Information Exchange March/April 1983
- IRS Publication 505 "Tax Withholding and Estimated Tax"



RESOURCES ON THE BUSINESS ASPECTS OF DAY CARE

Insurance

Family Day Care Providers Insurance Program – Insurance Programming Associates, P.O. Box 1085, Studio City, California 91604.

Care Providers Insurance Program – Insurance Programming Associates, P.O. Box 1085, Studio City, California 91604.

Insurance – Michigan Council of Cooperative Nurseries, P.O. Box 1734, East Lansing, Mich. 48823.

Resources for the Family Day Care Provider – Michigan State University Cooperative Extension Service, Bulletin E-1593, \$3.00/copy. Ed. Jeanne Brown.

Taxes

"Tax Guidelines for the Family Day Care Provider", Kerry Olson, Obtain from The Office for Young Children, 403 West Greenlawn, Lansing, MI 48910.

IRS Publication 587 – "Business Use of Your Home".

IRS Publication 17 – "Your Federal Income Tax". Contains an overview of the federal tax process, and includes sample filled in forms and examples.

Family Providers should pay special attention to the following tax forms:

Form 1040 – this is the main form you file. It includes entries carried over from your other forms. The amount of tax you owe or the refund due you is determined on this form.

Form 1040 Schedule C (Profit or Loss From Business) – this form contains a summary of all business-related income and deductions. Deductions are broken down into categories, many of which apply to the Family Day Care provider.

Form 1040 Schedule SE (Social Security Self-Employment Tax) – this form is used to figure the amount of Social Security tax owed. See IRS Publication 533, Self-Employment Tax, and the instructions for Schedule SE.

Form 1040-ES (Estimated Tax) – If your profits are high enough, you may have to file estimated tax payments quarterly, because income tax is supposed to be paid as the income is earned. If a substantial amount (over \$200) is owed in taxes at the end of the year, this is an indication that you should be paying estimated tax.

Form 3468 (Computation of Investment Credit) – this form is used for investment tax credit (a reduction of the tax you pay, based on the purchase of business equipment during the year).

Form 4562 (Depreciation and Amortization) – depreciation of items over a period of several years is handled on this form.

Tax Forms for Parents

Form 2441 (Credit for Child and Dependent Care Expenses) – credit for child care expenses.

Records

Calendar-Keeper, A Record Keeping System for Child Care Providers, Toys'n' Things Press, St. Paul, Mn., 1979.

Day Care Accounting and Day Care Costs, Gryphon House, 3706 Otis Street, Mt. Ranier, Md. 20822. \$4.00

Small Business Administration Publications, c/o Superintendent of Documents, USGPO, Washington, D.C. 20402. (SBA publishes a large number of financial management materials for small profit businesses, examples are "Budgeting in a Small Service Firm", "Keeping Records in a Small Business", "A Handbook of Small Business Finance", "Getting the Facts for Income Tax Reporting", and "Insurance Checklist for Small Businesses").

For The Record (Continued from page 4)

In a large center this might be assigned to one person. In a family day care home you may want to set aside a quiet time when children are sleeping to keep your records up-to-date and organized. You can save yourself some time by making sure people filling out forms know what is required of them and why. For example, you can explain to parents why you need the emergency information card, and you can enter in the name of the provider before they sign the statement regarding emergency medical treatment. Before giving out the blank health form, you can circle or highlight the areas

that doctors often forget to fill in, such as the date or recommendation on the child's physical.

A well organized record keeping system means that the next time rain cancels your walk to the park, you'll be able to pull out a list of rainy day substitutes. When Johnny suddenly becomes feverish and sick on the day that both his parents left town for business, you will be able to contact an emergency back-up person. When Ms. Jones insists that you overcharged her last week, you'll be able to verify how many hours you actually cared for Sally.

by Patricia Hearron
Center Licensing Consultant, Saginaw



Dear Ms. Levine:

We were very encouraged as Day Care providers about the publication of Better Homes and Centers.

Most loving licensed providers know about health and safety procedures. The Big Question we are faced with is how to continue work in the field with all the Budget Cuts. Over fifty percent of the children we used to care for were covered under the State paid Day Care program provided with federal money as well as state funds. This program ended with the first federal budget adopted under the leadership of Ronald Reagan and the Republican party October 1, 1981. Needless to say that hurt us but far more important then that is what has happened to these children since then. I am sure you know the answer as we do. We see it every day. We have children begging at our door and it is true hunger they ask for cookies but will settle for saltine crackers or anything we have.

Please give us any advice you can to help us continue the work we love. Children who need good care are all around us but the money for their care doesn't seem to be available. It seems ironic to us that America has money to interfere with foreign governments but is unwilling to help its own unfortunate children. Thank you.

Sincerely,

James, R. Belleville, Catherine A. Belleville - Evart, MI 49631.

Dear Mr. and Mrs. Belleville:

We too are concerned that child care remains an option not only for those parents who can afford it, but also for those who cannot.

A number of support groups exist both locally and nationally to offer providers and parents with relevant information regarding child care. In addition, at least a part of their role is to advocate for programs for the young child.

Might I suggest that you and other home and center providers take an active role in one or more of these groups to voice your opinions and work towards affecting change.

These groups include but are not limited to local family day care associations, 4C groups, (contact your licensing consultants to determine if these groups exist in your area); Affiliate groups to the National Association for the Education of Young Children, (contact Jacki Miller at 1824 Arbordale, Ann Arbor, MI 48103 for information about membership); Michigan Child Care Task Force, contact Margaret Crawley (517) 371-5360; and PAC on Behalf of Young Children, contact Lynn Parks (313) 483-8609.

Sincerely,

Judy Levine, Supervisor

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